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9 June 1969

MEMORANDUM FOR THE RECORD

SUBJECT: S. 764 - To Establish a Program to Provide Open Support
for Private Nongovernmental Activities

REFERENCE: Memo to DDI, DDS, DDP, DDS&T, and General Counsel
dtd 9 May 1969, same subject

1. The Deputy Directors and General Counsel were requested to review and submit comments on S. 764, establishing a program to provide open support for private nongovernmental activities. Senator Peter H. Dominick (R., Colo.), member of the Labor and Public Welfare Committee and the subcommittee which would handle the bill, had earlier offered to assist the Agency in connection with any problems posed by S. 764.

2. DDS&T offered no comment but all other Deputy Directors and the General Counsel support the proposed revision of section 7 of S. 764 (see reference). Interestingly, DCS, which initially registered concern in connection with this bill's predecessor (S. 1779, 90th Congress) reported that section 7 "would not cause DCS much difficulty" but agreed that the proposed revision would be better.

3. The DDP also believes that a proviso in section 4 affects the covert action interest of the Agency as distinguished from the intelligence collection interest of concern in section 7.

"SEC. 4(a) . . . No portion of any funds granted under this section shall be paid by the Director, or by any recipient of a grant under this section, to support any intelligence-gathering activity on behalf of the United States or to support any activity carried on by any officer or employee of the United States."

The DDP believes this proviso ". . . would tend to make the bill useless with regard to covert action interests of the Agency . . . ". This is true and, of course, is the bill's primary purpose.

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4. Section 4 and section 7 of the bill place similar prohibitions on intelligence gathering, with section 4 emphasizing expenditure of funds ("no portion of any funds . . . shall be paid by the Director, or by any recipient . . . to support . . . ") and section 7 emphasizing that strings are not to be tied to grants ("no department . . . shall request or require any recipient or any other beneficiary . . . to obtain, furnish, or report . . . "). True, section 4 not only prohibits support to intelligence-gathering activities but also to any activity carried on by an officer or employee of the United States, thus barring covert action as well as intelligence gathering. However, even if this tighter language were not in section 4, it would be of little consequence as it is doubted that the Agency would or could use the Foundation as a mechanism to fund covert action.

5. The DDP memorandum also implies that section 4 could be used to prohibit grants under the Act to private organizations which may have had past direct or indirect relationships with CIA. Since the granting of funds is discretionary, past involvement with CIA may, indeed, impinge upon a specific organization's success in obtaining funds from the Foundation, but clearly section 4 is not a legal bar as long as the funds granted do not support United States intelligence-gathering activities or other U.S. Government activities. The prohibition of section 4 runs to the activity and not against organizations as long as they are private.

6. The DDP also cites the possible pressure on the Agency under this proviso to inform the foundation of Agency interest in any individual seeking funds to participate in any given international meeting. This possibility can not be ruled out, but there is nothing in the bill to compel Agency response and it is believed that the main element of such assurance would be the certification requirements attached to the application for support. While there are no sanctions in the bill, conceivably misstatements in the application to the Foundation would be punishable under title 18.

7. It is believed that the preceding dispels the problems raised by the DDP, but even if the problems exist there seems little that the Agency could propose to remedy the situation without gutting the principal purpose of the bill, which is to assure that the activity supported by grants under the Act are, indeed, private activities.

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